

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

**VALERIE WALKER,
Plaintiff,**

vs.

**ATLAS OIL TRANSPORTATION, INC,

Defendant.**

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CIVIL ACTION NO. 4:18-cv-00052

**PLAINTIFF, VALERIE WALKER'S, FIRST AMENDED ORIGINAL COMPLAINT
AND JURY DEMAND**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Valerie Walker, hereinafter called Plaintiff, complaining of and about Atlas Oil Transportation, Inc, hereinafter called Defendant, and for cause of action shows unto the Court the following:

PARTIES AND SERVICE

1. Plaintiff Valerie Walker, is a citizen of the United States and the State of Texas and resides in Midland County, Texas.

2. Defendant Atlas Oil Transportation, Inc may be served by serving Angella Myers, its agent authorized to accept service.

JURISDICTION

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

NATURE OF ACTION

4. This is an action under Title 42 U.S.C. Section 2000e et. Seq. as amended by the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex.

CONDITIONS PRECEDENT

5. All conditions precedent to jurisdiction have occurred or been complied with: a charge of discrimination was filed with the Equal Employment Opportunity Commission within three-hundred days of the acts complained of herein and Plaintiff's Complaint is filed within ninety days of Plaintiff's receipt of the Equal Employment Opportunity Commission's issuance of a right to sue letter.

FACTS

6. Ms. Walker was hired by Defendant on or about March 3, 2017 to the position of frac driver.

7. Ms. Walker's starting hourly rate as a frac driver was \$18.50/hour.

8. Defendant's hourly employees were paid their base rate for 40 hours of work and overtime pay for time worked past 40 hours.

9. Defendant has over 15 employees.

10. Ms. Walker was employed by Defendant on or about March 3, 2017 to May 12, 2017.

11. Ms. Walker was hired by Jim French, lead supervisor, to the position of frac driver, reporting to Quinlan Wedel, Frac Fuel Team Leader.

12. Defendant has over fifteen employees.

13. During her employment, Ms. Walker held the position of transport driver, which had a higher pay rate than frac driver.

14. Ms. Walker's duties as a frac driver were to safely deliver products, equipment and render outstanding service to Defendant's customers.

15. Frac drivers were to comply with all OSHA, EPA, DOT requirements as well as

Defendant's and its customer's safety policies, procedures and practices.

16. Upon information and belief, Ms. Walker was the only female working for Defendant as a frac driver on March 6, 2017.

17. During her employment, one other female was hired by Defendant.

18. As part of on-boarding, Ms. Walker was sent to training in Evans, Colorado with other new hires on March 7, 2017.

19. As a new employee, Ms. Walker made every effort to get to know her co-workers and to work well with them.

20. As a new employee, Ms. Walker was learning about Defendant's internal safety requirements and those required by its customers.

21. During her employment, Ms. Walker sought to accomplish her work tasks in a safe and efficient manner.

22. Ms. Walker's uniform of coveralls were not provided to her and she was told by her co-worker Paul Bradfield that he and Mr. French decided that coveralls would not "look good" on her and that the coveralls available would not fit her properly.

23. Ms. Walker expressed concerns about how she was being talked about regarding how her uniform would fit that she was being treated differently because she was a female.

24. When she saw that her co-workers were not living up to their safety requirements, she voiced her concerns first to them and then to management.

25. Upon information and belief, Ms. Walker's commitment to safety was not taken well among her co-workers, who encouraged her to take the faster, more efficient, but less safe approach to work tasks.

26. During her training in Evans, Colorado, Ms. Walker overheard Joe say that he

was “glad that chick is leaving,” referring to Ms. Walker. Upon information and belief, Mr. McCoy heard Joe’s statement and did not take any action on Joe’s statement.

27. Ms. Walker raised her concerns to Joe and to Rick McCoy that she was being treated differently because she was female, who asked her to inform Mr. Wedel.

28. Ms. Walker went to Mr. McCoy regarding Joe’s statement that he was “glad that chick is leaving,” referring to Ms. Walker, and Mr. McCoy’s response was she should tell Jim French, the lead supervisor, and that she could leave if she wanted to.

29. It was only after voicing safety concerns that Ms. Walker’s co-workers started complaining to management about her.

30. On March 25, 2017, Ms. Walker was observed to have not been wearing her hard hat at the Clayton Williams Fuel Transfer Pad located in Pecos, Texas.

31. On March 25, 2017, when Ms. Walker did not have her hard hat on, she was not compromising her safety or placing herself in danger since she was not at the fracing location, work was not being performed, and equipment was not rigged up.

32. On or about April 4, 2017, Ms. Walker and her co-worker Paul Bradfield went to the West Texas Lodge man camp located in Pecos, Texas that Defendant’s employees are allowed to use as a courtesy. The man camp is the only place with a women’s bathroom on site. Mr. Bradfield and Ms. Walker went to use the internet and printer in the man camp. The facilities manager of the man camp was present and Ms. Walker retrieved her laptop and asked the facilities manager a question about using the printer and internet. This was the first time the facilities manager and Ms. Walker had spoken. Not appreciating her question, the facilities manager entered into a one-sided verbal altercation with Ms. Walker, and told her to pack up her things and move out of the man camp. The facilities manager banned Ms. Walker from the man

camp, which meant that she had to go off-site to truck stops in order to use the bathroom. At all times, Ms. Walker spoke in a respectful manner and spoke with her supervisor about the events.

33. Upon information and belief, Defendant did not investigate what happened with the man camp's facilities manager's treatment of Ms. Walker.

34. Upon information and belief, Defendant did not take remedial measures so that Ms. Walker could have access to the man camp and the women's bathroom.

35. On April 8, 2017, Ms. Walker needed to climb eleven feet off the ground in order to perform a job duty and had a safety harness in her hands, which a co-worker removed from her hands and she was told she would not need the safety harness.

36. On April 10, 2017, Ms. Walker was issued a written warning for not wearing her hard hat. Ms. Walker did not sign the written warning.

37. On April 10, 2017, Ms. Walker was issued a three-day suspension notice because it was claimed that she entered into a verbal altercation with the facilities manager. Ms. Walker did not sign the three-day suspension notice.

38. Upon information and belief, Ms. Walker was not suspended for three days.

39. Ms. Walker went to her supervisors on or about April 13, 2017 to discuss her work environment and her belief that she was being treated differently because she was female.

40. Ms. Walker's supervisor Doug Odom told Ms. Walker that he "knew the guys were lying about [her] and causing problems for [her]" and that he would try to "keep her away from the knuckleheads."

41. Upon information and belief, Ms. Walker's co-worker Julio spoke with Mr. French and told him that some of the guys were "playing dumb" and were not cooperating with Ms. Walker.

42. On or about April 24, 2017, Ms. Walker was moved by Mr. French from frac driver to transport driver, which is a position that paid \$24/hour.

43. Upon information and belief, Mr. French moved Ms. Walker from frac driver to transport driver as punishment for raising concerns about her disparate treatment as a female since as a transport driver, Ms. Walker would not be able to work as many hours as a frac driver.

44. Mr. French promised Ms. Walker increased pay but paid her the same hourly rate as a frac driver.

45. Upon information and belief, Defendant did not counsel Ms. Walker's co-workers on proper safety protocol and how to follow work policies and procedures, and how to communicate properly with co-workers.

46. During her employment, Mr. French attempted to move Ms. Walker to positions that she was not hired for and which cost her higher income-earning opportunities.

47. Ms. Walker made a complaint regarding sex discrimination to human resources and asked for the employee help line/assistance department for logging employee concerns.

48. Ms. Walker was terminated shortly after logging her concern that she was being retaliated against and treated differently because of her sex.

49. On May 6, 2017, while she was working at the Kermit, Texas location, Ms. Walker and a co-worker John De La Garza were transferring diesel fuel. Ms. Walker was at the controls watching the meter to determine when to stop fueling and made the error of pushing the handle the wrong way. Ms. Walker reacted to her mistake, but not quickly enough, causing five gallons of diesel to spill from the drain tubes.

50. In its written statement regarding the fuel spill, Defendant mistakenly indicated that the event occurred at the Halliburton Colt Site in Carlsbad, New Mexico.

51. Upon information and belief, another of Defendant's employees caused an oil spill of 200-500 gallons and was not terminated.

52. Ms. Walker's employment was terminated on May 12, 2017.

COUNT 1
SEX DISCRIMINATION UNDER TITLE VII

53. Defendant engaged in unlawful employment practices involving Plaintiff because she is a female.

54. Defendant discriminated against Plaintiff in connection with the compensation, terms, conditions and privileges of employment in violation of 42 U.S.C. Section 2000e-(2)(a). The effect of these practices has been to deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

COUNT 2
RETALIATION UNDER TITLE VII

55. Plaintiff alleges that Defendant instituted a campaign of retaliation which included baseless discipline, moving her to the transport driver position while not paying her the usual hourly rate for transport drivers, and terminating her. This retaliation was and is due to Plaintiff exercising her rights by opposing a discriminatory practice and making or filing a charge. Plaintiff suffered damages for which Plaintiff herein sues.

56. Defendant committed unlawful employment practices against Plaintiff because Plaintiff engaged in protracted activity.

57. The effect of the practices complained of above has been to deprive Plaintiff of equal employment opportunities, and otherwise adversely affect her status as an employee, because of her engagement in a protected activity.

58. Plaintiff would show that the retaliatory actions taken against her were motivated by Plaintiff opposing a discriminatory practice and making or filing a charge.

DAMAGES

59. Plaintiff sustained the following damages as a result of the actions and/or omissions of Defendant described hereinabove:

- a. All reasonable and necessary Attorney's fees incurred by or on behalf of Plaintiff;
- b. Back pay from the date that Plaintiff was denied equal pay for equal work and interest on the back pay in an amount to compensate Plaintiff as the Court deems equitable and just;
- c. All reasonable and necessary costs incurred in pursuit of this suit;
- d. Emotional pain;
- e. Expert fees as the Court deems appropriate;
- f. Front pay in an amount the Court deems equitable and just to make Plaintiff whole; and
- g. Inconvenience.

SPECIFIC RELIEF

60. Plaintiff seeks the following specific relief which arises out of the actions and/or omissions of Defendant described hereinabove:

- a. Prohibit by injunction the Defendant from engaging in unlawful employment practices.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Valerie Walker, respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount

within the jurisdictional limits of the Court; together with interest as allowed by law; costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

By:  _____
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Valerie Walker

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY

Certificate of Service

I certify that the foregoing document was served on all counsel of record through the CM/ECF system on December 12, 2018.

/s/Katherine Britton